



THE ATTORNEY GENERAL OF TEXAS

GERALD C. MANN

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. Homer Garrison, Jr.,
Director, Department of Public Safety
Austin, Texas

Dear Sir:

Opinion No. 0-1758

Re: S.B. 427, regular session
46th Legislature, 1939,--
General Appropriation Bill--
Department of Public Safety
Items 1 and 2 Maintenance and
Miscellaneous.

This will acknowledge receipt of your letter of December 5, 1939, preponding to this department for a legal opinion the following questions:

"Would this Department be authorized to expend portions of Item 2 in each of these instances for the purchase of motor equipment supplies consisting of fuel and lubricants and to expend portions of the amounts provided for Item 2 in each instance for labor involved in lubricating Department motor vehicles?"

"The classifications of expenditures for the License and Weight Division under 'Maintenance and Miscellaneous' are as follows:

- "1. Travel & Transportation expenses, automobile maintenance. \$17,300.00
2. Motor equipment, parts, supplies, fixtures, other equipment and supplies, printing, stationery, telegraph, telephone, rentals, teletypewriters, express, freight, postage, repairs, maintenance, hospitalization and medical services when injured in line of duty, funeral expenses when death results from injuries incurred in line of duty, surety bonds, loadmeters, radios, first aid supplies and all other necessary expenses. \$11,150.00

"The classifications of expenditures for the Texas Highway Patrol under 'Maintenance and Miscellaneous' are as follows:

- "1. Travel and transportation expense, automobile maintenance. \$53,000.00
2. Motor equipment, parts, supplies, fixtures, other equipment and supplies, printing, stationary, telephone, telegraph, rentals, teletypewriters, express, freight, postage, repairs, maintenance, hospitalization and medical services when injured in line of duty, funeral expenses when death results from injuries incurred in line of duty, surety bonds, uniforms, belts, scabbards, badges, arms and ammunitions, loadmeters, radios, first aid supplies, contingent expenses and all other reasonable and necessary expenses, including maintenance, labor, equipment and expenses of operating a training school for patrolmen. \$133,000.00

"The classifications of expenditures for the Drivers License Division under 'Maintenance and Miscellaneous' are as follows:

- "1. Travel and transportation expense, automobile maintenance. \$23,000.00
2. Motor equipment, parts supplies, fixtures, other equipment and supplies, printing, stationery, telephone, telegraph, rentals, express, freight, postage, repairs, maintenance, hospitalization and medical services when injured in line of duty and funeral expenses when death results from injuries received in line of duty, surety bonds, uniforms, belts, scabbards, badges, arms, ammunition, radios, first aid supplies, contingent expenses, and all other reasonable and necessary expenses, including equipment and expense of operating training school for examiners. \$41,200.00."

We construe your question as asking whether or not the expense for purchase of motor equipment supplies, consisting of fuel and lubricants, and the labor incident thereto, for the lubricating of department motor vehicles may be taken from Item 2 of these Maintenance and Miscellaneous appropriations rather than from Item 1.

As thus construed, we are of the opinion the question should

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be answered in the affirmative. Fuel, lubricants and labor incident to their use in connection with department motor vehicles, is more specifically embraced in Item 2 than in Item 1 of the appropriation. The only language of Item 1 that could possibly embrace such expenses is "automobile maintenance;" while Item 2 mentions such things as "supplies." The expense items mentioned by you are more reasonably contemplated by the mobile maintenance" of Item 1. From this we deduce the inference that the Legislature intended such items of expense, as mentioned by you, to be paid from Item 2 rather than Item 1.

Very truly yours

ATTORNEY GENERAL OF TEXAS

s/ Ocie Speer

By

Ocie Speer
Assistant

OS-MR/cg

APPROVED DEC. 11, 1939
s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE
By BWB, Chairman